

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

BRUD ROSSMANN,

Plaintiff,

vs.

JOHN COWLES, and
JOHN DOES 1 - 3,

Defendants.

CV 16-49-BU-BMM-JCL

ORDER, and FINDINGS
AND RECOMMENDATION

Plaintiff Brud Rossmann, appearing pro se, filed a motion requesting leave to proceed in forma pauperis. Rossmann submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Because it appears he lacks sufficient funds to prosecute this action **IT IS HEREBY ORDERED** that Rossmann's motion is **GRANTED**. This action may proceed without prepayment of the filing fee, and the Clerk of Court is directed to file Rossmann's lodged Complaint as of the filing date of his request to proceed in forma pauperis.

Rossmann filed his complaint in this matter on September 27, 2016. He identified his mailing address as: c/o Sawtooth Capital, LLC, 814 W. Copper St., Butte, Montana 59701.

On September 28, 2016, the Court mailed a document — Notice of Case Opening — through the United States Postal Service addressed to Rossmann at the Copper St. address set forth above. The content of the Notice advises a litigant of various procedural matters, including a litigant’s obligation to inform the Court of any change of address. That Notice, however, was returned to the Court on October 4, 2016, by the United States Postal Service with the notation:

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

(Doc. 4.)

On October 4, 2016, the Court then resent the Notice of Case Opening document to Rossmann at the same address in care of Sawtooth Capital LLC. But on October 11, 2016, the United States Postal Service returned that mailing to the Court stamped with the same notation stated above.

Since the Court’s mailings described above have been returned to the Court, and because Rossmann has not informed the Court of any change of address, this action is now subject to dismissal. The Local Rules for the District of Montana provide as follows:

(b) Dismissal Due to Failure to Notify. The Court may dismiss a complaint without prejudice or strike an answer when:

(1) a document directed to the attorney or self-represented party by the court has been returned to the court as not deliverable; and

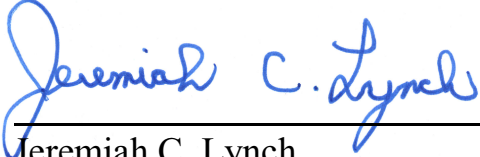
(2) the court fails to receive within 60 days of this return a written communication from the attorney or self-represented party indicating a current address for service.

L.R. 5.2(b).

The Notice of Case Opening document that the Court mailed to Rossmann was returned to the Court on October 4, 2016, as undeliverable. Within the 60-day period following that date, and as of the date of this recommendation, Rossmann has not provided the Court with a written notice informing it of his change of address.

Therefore, IT IS HEREBY RECOMMENDED that this action be DISMISSED without prejudice pursuant to L.R. 5.2(b).

DATED this 5th day of December, 2016.


Jeremiah C. Lynch
United States Magistrate Judge